

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 3024

1000N-10M-10



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2015 OCT -6 PM 3:43

October 6, 2015

**SENSITIVE**

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *AWP*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC/NMS*  
Assistant Staff Director  
Reports Analysis Division

BY: Kristin D. Roser *KDR*  
Compliance Branch

SUBJECT: Reason to Believe Recommendation -  
Failure to File 48-Hour Notices under the Administrative Fine Program

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from the close of books for the Mississippi 2015 12 Day Pre-Special Report up to 48 hours before the May 12, 2015 Special General Election in accordance with 52 U.S.C. § 30104(a) and 11 CFR. § 104.5(f). The committee, WHITWELL FOR CONGRESS, represents a candidate who lost the Special General Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$58,000.00.

A 48-hour notice is required to report all contributions of a \$1,000.00 or more, to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per 11 CFR § 104.5(f).

We have attached an information sheet which includes the contributor name, date of receipt and amount of the contributions for which a 48-hour notice was not filed.

In accordance with the schedule of civil money penalties outlined within 11 CFR § 111.44, this committee should be assessed the civil money penalty so indicated.

# Information

- # Information

# Information

**Contributions for Which a 48-Hour Notice Was Not Received**

AF 3024

Committee ID: C00573428

Committee Name: WHITWELL FOR CONGRESS

Report Type: 30 Day Post-Special Report (04/23/2015 - 06/01/2015)

48-Hour Reporting Period: 04/23/2015 - 05/09/2015

CONTRIBUTOR	DATE	AMOUNT
NICHOLS, LEE M	04/24/2015	\$1,000.00
WHITWELL, ROBERT QUENTIN JR	04/30/2015	\$25,000.00
WHITWELL, ROBERT QUENTIN JR	04/30/2015	\$25,000.00
BUTLER SNOW POLITICAL ACTION COMMITTEE	05/06/2015	\$1,000.00
FRANKS, JAMES R JR	05/06/2015	\$2,500.00
HENSLEY, MARY	05/06/2015	\$1,000.00
MYERS, CHARLES	05/06/2015	\$1,000.00
WASTE MANAGEMENT EMPLOYEES BETTER GOVERNMENT FUND	05/06/2015	\$1,500.00
	<b>TOTAL</b>	<b>\$58,000.00</b>

Proposed Civil Money Penalty: \$6,130.00 ((3 Notices Not Filed at \$110) + (10% of the Overall Contributions Not Filed))

**Federal Election Commission  
Reason to Believe Circulation Report  
48-Hour Notification Report**

A#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prior Violations	Notices Not Filed	LOA	Penalty
2024	C00573426	WHITWELL FOR CONGRESS	MS	2015	WHITWELL, ROBERT QUENTIN JR	BREAZEALE, PAUL V	0	3	\$58,000	\$6,130

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation - ) AF 3024  
Failure to File 48-Hour Notices under the )  
Administrative Fine Program: Whitwell )  
for Congress and Paul V. Breazeale, )  
Treasurer )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election  
Commission, do hereby certify that on October 07, 2015, the Commission  
decided by a vote of 6-0 to take the following actions in AF 3024:

1. Find reason to believe that Whitwell for Congress and Paul V.  
Breazeale, Treasurer, violated 52 U.S.C. § 30104(a) and make a  
preliminary determination that a civil money penalty of \$6,130 be  
assessed.
2. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub  
voted affirmatively for the decision.

Attest:

October 8, 2015  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 8, 2015

Paul V. Breazeale, in official capacity as Treasurer  
Whitwell for Congress  
P.O. Box 2547  
Oxford, MS 38655

C00573428  
AF#: 3024

Dear Mr. Breazeale:

The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Federal Election Commission ("FEC"), and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 52 U.S.C. § 30104(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 52 U.S.C. § 30104(a). Our records indicate that Whitwell for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between April 24, 2015 and May 6, 2015, totaling \$58,000, as required by 52 U.S.C. § 30104(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On October 7, 2015, the FEC found that there is Reason to Believe ("RTB") that Whitwell for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$6,130. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$110 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment of \$6,130 within forty (40) days of the finding, or by November 16, 2015.

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Whitwell for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate



### 3. If You Choose to Pay the Civil Money Penalty

**NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

**If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.**

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities, 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact David Garr in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

**On behalf of the Commission,**

Joe M Ravel

**Ann M. Ravel  
Chair**

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at RTB is \$6,130 for the 2015 Special General Election 48-Hour Notification Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by November 16, 2015. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
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FOR: Whitwell for Congress

FEC ID#: C00573428

AF#: 3024

PAYMENT DUE DATE: November 16, 2015

PAYMENT AMOUNT DUE: \$6,130

**Contributions for Which a 48-Hour Notice Was Not Received**

AF 3024

Committee ID: C00573428

Committee Name: WHITWELL FOR CONGRESS

Report Type: 30 Day Post-Special Report (04/23/2015 - 06/01/2015)

48-Hour Reporting Period: 04/23/2015 - 05/09/2015

CONTRIBUTOR	DATE	AMOUNT
NICHOLS, LEE M	04/24/2015	\$1,000.00
WHITWELL, ROBERT QUENTIN JR	04/30/2015	\$25,000.00
WHITWELL, ROBERT QUENTIN JR	04/30/2015	\$25,000.00
BUTLER SNOW POLITICAL ACTION COMMITTEE	05/06/2015	\$1,000.00
FRANKS, JAMES R JR	05/06/2015	\$2,500.00
HENSLEY, MARY	05/06/2015	\$1,000.00
MYERS, CHARLES	05/06/2015	\$1,000.00
WASTE MANAGEMENT EMPLOYEES BETTER GOVERNMENT FUND	05/06/2015	\$1,500.00
TOTAL		\$58,000.00

Proposed Civil Money Penalty: \$6,130.00 ((3 Notices Not Filed at \$110) + (10% of the Overall Contributions Not Filed))

18 NOV '15 RCVD

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**BREAZEALE, SAUNDERS & O'NEIL, LTD.**  
CERTIFIED PUBLIC ACCOUNTANTS

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November 16, 2015

**VIA OVERNIGHT DELIVERY**

Ann M. Ravel, Chair  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

RE: Whitwell for Congress  
FEC Committee ID: C00573428  
AF# 3024

Dear Ms. Ravel:

This letter is our challenge to the attached FEC letter. We reserve the right to provide additional written and nonwritten additions to the information presented herein.

We bring to your attention that, in my frustrations at not receiving information from the campaign, that on September 30, 2015, I resigned as treasurer of the campaign. A copy of the email informing Mr. Whitwell of my resignation is attached. For the record, and in spite of sending multiple invoices, I was never paid any money for my service as treasurer.

This campaign was for a congressional district in northern Mississippi. Our offices are located outside the district in Jackson, Mississippi. During the campaign, I saw the candidate on only one occasion—an evening fundraiser in Jackson. Although I had multiple phone conversations with some of the advisors and campaign staff, I did not have any face-to-face meetings with them. Needless to say, my thoughts were that none in the onsite campaign had any FEC experience. The candidate lost the election—he did not make it to the runoff.

In a nutshell, the campaign did not keep me sufficiently informed about campaign finances so that proper 48-Hour reports could be filed. Despite many efforts (phone calls, emails, etc.) to get the information, it simply was not forthcoming. I repeatedly tried as hard as anyone could to get the information to file proper reports, but was simply unable to do so. In my frustration, I resigned.

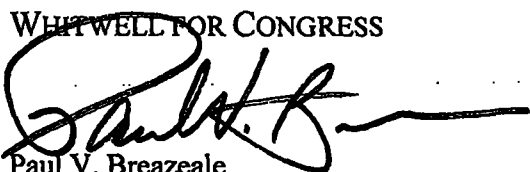
*Ann M. Ravel, Chair  
Federal Election Commission  
November 16, 2015  
Page two*

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It would be unfair to hold me accountable for filing reports that I did not have the information needed to file.

Sincerely yours,

WHITWELL FOR CONGRESS

  
Paul V. Breazeale  
Former Treasurer

11/16/2015 11:00:00 AM



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2016 FEB 23 PM 2:40

February 23, 2016

MEMORANDUM

**SENSITIVE**

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

Subject: Rescinding and Resubmitting the Reason to Believe Recommendation for AF#  
3024 – Whitwell for Congress (C00573428)

On October 7, 2015, the Commission found reason to believe ("RTB"), using a no-objection voting procedure, that Whitwell for Congress and Paul V. Breazeale, Treasurer, violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for eight contributions totaling \$58,000 and made a preliminary determination that the civil money penalty was \$6,130 based on the schedule of penalties at 11 C.F.R. § 111.44. In light of the Court of Appeals' decision in *Combat Veterans for Congress Political Action Committee v. Federal Election Commission*, 795 F. 3d 151 (D.C. Cir. 2015) and subsequent guidance received from the Office of the General Counsel, OAR recommended that the Commission ratify its October 7, 2015 RTB finding.

In response to the October 7, 2015 RTB finding, Mr. Breazeale notified the Commission of his resignation as Treasurer. The Committee has not yet designated a new Treasurer pursuant to 11 CFR § 102.2(a)(2). In accordance with the Commission's Procedures for Successor

# 1-800-NY-1-0000

- 1) Withdraw the reason to believe ratification recommendation of December 30, 2015 for AF# 3024 involving Whitwell for Congress and Paul V. Breazeale, Treasurer.
- 2) Rescind the reason to believe finding of October 7, 2015 for AF# 3024 involving Whitwell for Congress and Paul V. Breazeale, Treasurer.
- 3) Find reason to believe that Whitwell for Congress and the Office of Treasurer violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$6,130 be assessed.
- 4) Send the appropriate letter.

2

**Contributions for Which a 48-Hour Notice Was Not Received**

**AF 3024**

**Committee ID: C00573428**

**Committee Name: WHITWELL FOR CONGRESS**

**Report Type: 30 Day Post-Special Report (04/23/2015 - 06/01/2015)**

**48-Hour Reporting Period: 04/23/2015 - 05/09/2015**

CONTRIBUTOR	DATE	AMOUNT
NICHOLS, LEE M	04/24/2015	\$1,000.00
WHITWELL, ROBERT QUENTIN JR	04/30/2015	\$25,000.00
WHITWELL, ROBERT QUENTIN JR	04/30/2015	\$25,000.00
BUTLER SNOW POLITICAL ACTION COMMITTEE	05/06/2015	\$1,000.00
FRANKS, JAMES R JR	05/06/2015	\$2,500.00
HENSLEY, MARY	05/06/2015	\$1,000.00
MYERS, CHARLES	05/06/2015	\$1,000.00
WASTE MANAGEMENT EMPLOYEES BETTER GOVERNMENT FUND	05/06/2015	\$1,500.00
<b>TOTAL</b>		<b>\$58,000.00</b>

**Proposed Civil Money Penalty: \$6,130.00 ((3 Notices Not Filed at \$110) + (10% of the Overall Contributions Not Filed))**



01/10/2016 11:00:00

Federal Election Commission  
Reason to Believe Circulation Report  
48-Hour Notification Report  
2/22/2016 1:17 PM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	Penalty
3024	C00573428	WHITWELL FOR CONGRESS	MS	2015	WHITWELL, ROBERT QUENTIN JR.	OFFICE OF TREASURER	0	3	\$58,000	\$8,130

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Rescinding and Resubmitting the Reason ) AF 3024  
to Believe Recommendation: Whitwell )  
for Congress and Paul V. Breazeale, )  
Treasurer )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on February 25, 2016, the Commission decided by a vote of 4-2 to take the following actions in AF 3024:

1. Withdraw the reason to believe ratification recommendation of December 30, 2015 for AF# 3024 involving Whitwell for Congress and Paul V. Breazeale, Treasurer.
2. Rescind the reason to believe finding of October 7, 2015 for AF# 3024 involving Whitwell for Congress and Paul V. Breazeale, Treasurer.
3. Find reason to believe that Whitwell for Congress and the Office of Treasurer violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$6,130 be assessed.
4. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, and Weintraub voted affirmatively for the decision. Commissioners Ravel and Walther dissented.

Attest:

February 25, 2016  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
SECRETARY

2016 MAR -9 AM 11:33

**SENSITIVE**

March 9, 2016

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 3024 – Whitwell for Congress and the  
Office of Treasurer (C00573428)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation. After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 9, 2016

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 3024 – Whitwell for Congress and the Office of Treasurer (C00573428)

**Summary of Recommendation**

Make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$6,130 civil money penalty.

**Reason-to-Believe Background**

In connection with the 2014 Mississippi Special General Election held on May 12, 2015, the respondents were required to file 48-Hour Notices of Contributions/Loans ("48-Hour Notices") for contributions of \$1,000 or more received between April 23, 2015 and May 9, 2015. On October 7, 2015, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for eight contributions totaling \$58,000 and made a preliminary determination that the civil money penalty was \$6,130 based on the schedule of penalties at 11 C.F.R. § 111.44. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on October 8, 2015 to notify them of the Commission's RTB finding and civil money penalty.

**Legal Requirements**

The Federal Election Campaign Act ("Act") requires that the principal campaign committee of a candidate must notify the Commission, in writing, of any contribution of \$1,000 or more received after the 20<sup>th</sup> day but more than 48 hours before an election. The principal campaign committee must notify the Commission within 48 hours of receipt of the contribution. The 48-hour notification shall be in addition to all other reporting requirements under the Act. 52 U.S.C. § 30104(a)(6)(A) and 11 C.F.R. § 104.5(f). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

**Summary of Respondents' Challenge**

On November 18, 2015, the Commission received the written response ("challenge") from Paul V. Breazeale. Mr. Breazeale stated he resigned as Treasurer on September 30, 2015 and further explained:

In a nutshell, the campaign did not keep me sufficiently informed about campaign finances so that proper 48-Hour reports could be filed. Despite many efforts (phone calls, emails, etc.) to get the information, it simply was not forthcoming. I repeatedly tried as hard as anyone could to get the information to file proper reports, but was simply unable to do so. In my frustration, I resigned. (1)

Mr. Breazeale concluded by stating: "It would be unfair to hold me accountable for filing reports that I did not have the information needed to file." The challenge included a copy of the resignation email sent to the Candidate on September 30, 2015 and a copy of the RTB Letter.

### Analysis

On July 27, 2015, RAD sent a Request for Additional Information ("RFAI") regarding missing 48-Hour Notices for eight contributions totaling \$58,000. The RFAI was sent via email to "pbreazeale@bsoltd.com" and "jsoileau@bsoltd.com," the email addresses listed on the Committee's Statement of Organization (FEC Form 1). As of this date, a response to the RFAI has not been received.

On October 7, 2015, the Commission found reason to believe ("RTB"), using a no objection voting procedure, that Whitwell for Congress and Paul V. Breazeale, Treasurer, violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for eight contributions totaling \$58,000 and made a preliminary determination that the civil money penalty was \$6,130 based on the schedule of penalties at 11 C.F.R. § 111.44. In light of the Court of Appeals' decision in *Combat Veterans for Congress Political Action Committee v. Federal Election Commission*, 795 F. 3d 151 (D.C. Cir. 2015) and subsequent guidance received from the Commission's Office of the General Counsel, OAR recommended that the Commission ratify its October 7, 2015 RTB finding.

In accordance with Commission procedures, OAR and RAD made subsequent recommendations to account for Mr. Breazeale's resignation on September 30, 2015. The recommendation to ratify the original October 7, 2015 RTB finding was withdrawn, and the Commission rescinded the October 7, 2015 RTB finding against Mr. Breazeale. On February 25, 2016, the Commission found RTB that Whitwell for Congress and the Office of Treasurer<sup>1</sup> violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for eight contributions totaling \$58,000 and made a preliminary determination that the civil money penalty was \$6,130 based on the schedule of penalties at 11 C.F.R. § 111.44.

The Commission has taken the appropriate actions to account for Mr. Breazeale's resignation. However, with respect to the reporting violation, the Reviewing Officer concludes the challenge fails to adequately address any of the three valid grounds at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they

<sup>1</sup> The Committee has not yet designated a new Treasurer pursuant to 11 CFR § 102.2(a)(2). On December 22, 2015, RAD sent a Request for Additional Information to the Candidate, for which a response has not yet been received.

filed the report no later than 24 hours after the end of these circumstances. 11 C.F.R. § 104.14(d). Therefore, the Reviewing Officer recommends that the Commission make a final determination that Whitwell for Congress and the Office of Treasurer violated 52 U.S.C. § 30104(a) and assess a \$6,130 civil money penalty.

#### **OAR Recommendations**

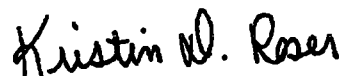
1. Adopt the Reviewing Officer Recommendation for AF# 3024 involving Whitwell for Congress and the Office of Treasurer in making the final determination;
2. Make a final determination in AF# 3024 that Whitwell for Congress and the Office of Treasurer violated 52 U.S.C. § 30104(a) and assess a \$6,130 civil money penalty; and
3. Send the appropriate letter.

#### **Attachments**

- Attachment 1 -
- Attachment 2 -
- Attachment 3 -
- Attachment 4 - Declaration from RAD
- Attachment 5 - Declaration from OAR

**DECLARATION OF KRISTIN D. ROSER**

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the FECFile software or administrative fine regulations, including due dates of reports and filing requirements.
3. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Whitwell for Congress:
  - A) Request for Additional Information for the 2015 30 Day Post-Special Report, dated July 27, 2015, referencing the missing 48-Hour Notices (sent via electronic mail to: pbreazeale@bsoltd.com and jsoileau@bsoltd.com);
  - B) Reason-to-Believe Letter, dated October 8, 2015 referencing the missing 48-Hour Notices (sent via overnight mail to the address of record).
4. I hereby certify that I have searched the Commission's public records and find that Whitwell for Congress has not yet filed the missing 48-Hour Notices with the Commission.
5. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 24<sup>th</sup> day of November, 2015.



Kristin D. Roser  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

July 27, 2015

PAUL V. BREAZEALE, TREASURER  
WHITWELL FOR CONGRESS  
POST OFFICE BOX 2547  
OXFORD, MS 38655

Response Due Date

08/31/2015

IDENTIFICATION NUMBER: C00573428

REFERENCE: 30 DAY POST-SPECIAL REPORT (04/23/2015 - 06/01/2015)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. Failure to adequately respond by the response date noted above could result in an audit or enforcement action. Additional information is needed for the following 5 item(s):

1. Schedule A of your report indicates that your committee may have failed to file one or more of the required 48-hour notices regarding "last minute" contributions received by your committee after the close of books for the 12 Day Pre-Special General Report (see attached). A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution of \$1,000 or more received between two and twenty days before an election. These contributions are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions of \$1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions received during the aforementioned time period. The failure to file 48-hour notices may result in civil money penalties or legal enforcement action. (11 CFR § 104.5(f))

If any contribution of \$1,000 or more was incorrectly reported, you must amend your original report with the clarifying information.

2. Commission Regulations require that a committee discloses the identification of all individuals who contribute in excess of \$200 in an election cycle. (11 CFR § 104.3(a)(4)(i)) Identification for an individual is defined as the full name (initials for first or last name are not acceptable), complete mailing address, occupation, and name of employer. (11 CFR § 100.12) Your report discloses contributions from individuals for which the identification is



## WHITWELL FOR CONGRESS

Page 2 of 4

not complete.

The following employer and occupation entries appear on your report and are not considered acceptable: "Blank/Blank."

You must provide the missing information, or if you are unable to do so, you must demonstrate that "best efforts" have been used to obtain the information. To establish "best efforts," you must provide the Commission with a detailed description of your procedures for requesting the information. Establishing "best efforts" is a three-fold process.

First, your original solicitation must include a clear and conspicuous request for the contributor information and must inform the contributor of the requirements of federal law for the reporting of such information. (11 CFR § 104.7(b)(1)) See 11 CFR § 104.7(b)(1)(B) for examples of acceptable statements regarding the requirements of federal law.

Second, if the information is not provided, you must make one follow-up, stand alone effort to obtain this information, regardless of whether the contribution(s) was solicited or not. This effort must occur no later than 30 days after receipt of the contribution and may be in the form of a written request or an oral request documented in writing. (11 CFR § 104.7(b)(2)) The requests must:

- clearly ask for the missing information, without soliciting a contribution;
- inform the contributor of the requirements of federal law for the reporting of such information, and
- if the request is written, include a pre-addressed post card or return envelope.

Third, if you receive contributor information after the contribution(s) has been reported, you should either a) file with your next regularly scheduled report, an amended memo Schedule A-P listing all the contributions for which additional information was received; or b) file on or before your next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s). (11 CFR § 104.7(b)(4))

Please amend your report to provide the missing information or a detailed description of your procedures for requesting the information. For more information on demonstrating "best efforts," please refer to the Campaign Guide.

**3. On Schedule B supporting Line 17 of your report, you have itemized**

## WHITWELL FOR CONGRESS

Page 3 of 4

disbursements for which you have failed to include the address. Please amend your report to include the missing information. (11 CFR § 104.3(b)(4))

4. Itemized disbursements must include a brief statement or description of why each disbursement was made. Please amend Schedule B supporting Line 17 of your report to clarify the following description(s): "Consulting," "Contract Labor," "Fundraiser Fee," and "Fundraising Expense." For further guidance regarding acceptable purposes of disbursement, please refer to 11 CFR 104.3(b)(4)(i)(A).

Additional clarification regarding inadequate purposes of disbursement published in the Federal Register is available on the FEC website at [www.fec.gov/law/policy/purposeofdisbursement/inadequate\\_purpose\\_list\\_3507.pdf](http://www.fec.gov/law/policy/purposeofdisbursement/inadequate_purpose_list_3507.pdf). A non-exhaustive list of acceptable purposes is also available on the FEC website at <http://www.fec.gov/rad/pacs/documents/ExamplesofAdequatePurposes.pdf>.

5. Schedule B of your report discloses reimbursements to individuals for the following disbursement(s): "Expense Reimbursement." Please be advised that when itemizing reimbursements to individuals for goods or services, if the payment to the original vendor aggregates in excess of \$200 in an election cycle, a memo entry including the name and address of the original vendor, as well as the date, amount and purpose of the original purchase must be provided. Please amend your report to include the missing information on Schedule B and clearly identify each memo entry supporting a reimbursement. If itemization is not necessary, you must indicate so in an amendment to this report. (11 CFR §§ 104.3(b)(4)(i) and 104.9, and Advisory Opinions 1992-1 and 1996-20, footnote 3)

Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. Requests for extensions of time in which to respond will not be considered.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended.

WHITWELL FOR CONGRESS

Page 4 of 4

If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1171.

Sincerely,



Jessica Grainger  
Campaign Finance Analyst  
Reports Analysis Division

432

01/01/2015 10:00:00

**Missing 48-Hour Notices**  
**Whitwell for Congress (C00573428)**

Contributor Name	Date	Amount	Election
Nichols, Lee M	4/24/15	\$1,000.00	S2015
Whitwell, Robert Quentin Jr.	4/30/15	\$25,000.00	S2015
Whitwell, Robert Quentin Jr.	4/30/15	\$25,000.00	S2015
Butler Snow Political Action Committee	5/6/15	\$1,000.00	S2015
Franks, James R Jr.	5/6/15	\$2,500.00	S2015
Hensley, Mary	5/6/15	\$1,000.00	S2015
Myers, Charles	5/6/15	\$1,000.00	S2015
Waste Management Employees Better Government Fund	5/6/15	\$1,500.00	S2015



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 8, 2015

Paul V. Breazeale, in official capacity as Treasurer  
Whitwell for Congress  
P.O. Box 2547  
Oxford, MS 38655

C00573428  
AF#: 3024

Dear Mr. Breazeale:

The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Federal Election Commission ("FEC"), and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 52 U.S.C. § 30104(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 52 U.S.C. § 30104(a). Our records indicate that Whitwell for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between April 24, 2015 and May 6, 2015, totaling \$58,000, as required by 52 U.S.C. § 30104(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On October 7, 2015, the FEC found that there is Reason to Believe ("RTB") that Whitwell for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$6,130. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$110 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment of \$6,130 within forty (40) days of the finding, or by November 16, 2015.

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or November 16, 2015. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Whitwell for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate

action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

**NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

**4. Partial Payments**

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

**5. Settlement Offers**

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact David Garr in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Ann M. Ravel  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at RTB is \$6,130 for the 2015 Special General Election 48-Hour Notification Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by November 16, 2015. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

---

FOR: Whitwell for Congress

FEC ID#: C00573428

AF#: 3024

PAYMENT DUE DATE: November 16, 2015

PAYMENT AMOUNT DUE: \$6,130



**Contributions for Which a 48-Hour Notice Was Not Received**

AF 3024

Committee ID: C00573428

Committee Name: WHITWELL FOR CONGRESS

Report Type: 30 Day Post-Special Report (04/23/2015 - 06/01/2015)

48-Hour Reporting Period: 04/23/2015 - 05/09/2015

CONTRIBUTOR	DATE	AMOUNT
NICHOLS, LEE M	04/24/2015	\$1,000.00
WHITWELL, ROBERT QUENTIN JR	04/30/2015	\$25,000.00
WHITWELL, ROBERT QUENTIN JR	04/30/2015	\$25,000.00
BUTLER SNOW POLITICAL ACTION COMMITTEE	05/06/2015	\$1,000.00
FRANKS, JAMES R JR	05/06/2015	\$2,500.00
HENSLEY, MARY	05/06/2015	\$1,000.00
MYERS, CHARLES	05/06/2015	\$1,000.00
WASTE MANAGEMENT EMPLOYEES BETTER GOVERNMENT FUND	05/06/2015	\$1,500.00
TOTAL		\$33,000.00

Proposed Civil Money Penalty: \$6,130.00 ((3 Notices Not Filed at \$110) + (10% of the Overall Contributions Not Filed))

### DECLARATION OF RHIANNON MAGRUDER

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) The principal campaign committee of a candidate must file notifications disclosing contributions of \$1,000 or more which are received after the 20<sup>th</sup> day but more than 48 hours before an election. These notifications (also called 48-Hour Notices) must be filed with the Commission within 48 hours of the committee's receipt of the contribution(s).
- 3) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
  - a) Statement of Organization filed by Whitwell for Congress and the Office of Treasurer. The document was filed on March 2, 2015.
  - b) Statement of Treasurer's Resignation filed by Paul V. Breazeale on December 7, 2015.
- 4) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 9th day of March, 2016.



Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission

FEC  
FORM 1STATEMENT OF  
ORGANIZATION

Office Use Only

1. NAME OF COMMITTEE (in full) (Check if name is changed) Example: If typing, type over the lines.

12FE4M5

WHITWELL FOR CONGRESS

ADDRESS (number and street)

POST OFFICE BOX 2547

(Check if address is changed)

OXFORD

CITY ▲

MS

STATE ▲

38655

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS

(Check if address is changed)

pbreazeale@bsoltd.com

Optional Second E-Mail Address

jjspleau@bsoltd.com

COMMITTEE'S WEB PAGE ADDRESS (URL)

(Check if address is changed)

2. DATE

03 / 02 / 2015

3. FEC IDENTIFICATION NUMBER ►

C00573428

4. IS THIS STATEMENT



NEW (N)

OR

AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer PAUL V BREAZEALÉ

Signature of Treasurer

PAUL V BREAZEALÉ

[Electronically Filed]

Date

03 / 02 / 2015

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.  
ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office  
Use  
Only

For further information contact:  
Federal Election Commission  
Toll Free 800-424-9530  
Local 202-694-1100

FEC FORM 1  
(Revised 06/2012)

15950834817

Page 2

**Candidate Committee:**

- Name of Candidate ROBERT QUENTIN WHITWELL JR

01

- Name of Candidate**

(d) This committee is a \_\_\_\_\_ (National, State or subordinate) committee of the \_\_\_\_\_ (Democratic, Republican, etc.) Party.

## Cooperative

**In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)**

1. \_\_\_\_\_ FEC ID number: C

2. \_\_\_\_\_ FEC ID number: C

3. \_\_\_\_\_ FEC ID number C

4. \_\_\_\_\_ FEC ID number C

Image# 15950834819

FEC Form 1 (Revised 02/2009)

Page 3

Write or Type Committee Name

WHITWELL FOR CONGRESS

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

NONE

Mailing Address

CITY

STATE

ZIP CODE

Relationship: ☐ Connected Organization ☐ Affiliated Committee ☐ Joint Fundraising Representative ☐ Leadership PAC Sponsor

7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name

PAUL V BREAZEALE

Mailing Address

POST OFFICE BO 80

JACKSON

MS

39205

Title or Position

CITY

STATE

ZIP CODE

TREASURER

Telephone number

601

969

7440

8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name  
of Treasurer

PAUL V BREAZEALE

Mailing Address

POST OFFICE BO 80

JACKSON

MS

39205

Title or Position  
TREASURER

CITY

STATE

ZIP CODE

Telephone number

601

969

7440

Image# 15950834820

FEC Form 1 (Revised 02/2009)

Page 4

Full Name of  
Designated  
Agent

Mailing Address

Title or Position

Telephone number

CITY

STATE

ZIP CODE

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.

BANCORP SOUTH BANK

Mailing Address

375 EAST MAIN STREET

TUPELO

MS

38804

CITY

STATE

ZIP CODE

Name of Bank, Depository, etc.

Mailing Address

CITY

STATE

ZIP CODE

1100001-1000011

RECEIVED  
FEC MAIL CENTER  
2015 DEC -7 AM 8:39

**BREAZEALE, SAUNDERS & O'NEIL, LTD.**  
CERTIFIED PUBLIC ACCOUNTANTS

November 30, 2015

Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

RE: Whitwell for Congress  
FEC Committee ID: C00573428

Dear Sir or Madam:

This letter will formally inform you that on September 30, 2015, I resigned as treasurer of the above-referenced campaign.

Attached is a copy of my email to the candidate resigning as treasurer.

Please call me if you have any questions.

Sincerely yours,

WHITWELL FOR CONGRESS

  
Paul V. Breazeale  
Former Treasurer

Enclosure

**Paul Breazeale**

---

**From:** Paul Breazeale  
**Sent:** Wednesday, September 30, 2015 2:21 PM  
**To:** Quentin Whitwell (qwhitwell@meadowbrookcap.com); Quentin Whitwell  
**Subject:** Resignation as campaign treasurer.....  
  
**Contacts:** Quentin Whitwell

Quentin,

We have not heard from you regarding our requests for information that we need to file required, complete FEC reports on your congressional campaign.

Effective today this will notify you that I am resigning as treasurer of your campaign.

Going forward, we will make available to you any records in our possession that you might need.

We will send you a final billing through the close of business today.

Best wishes to you in all of your future endeavors.

Regards.....

*Paul*

---

Paul V. Breazeale  
Certified Public Accountant  
Breazeale, Saunders & O'Neil, Ltd.  
Post Office Box 80  
Jackson, Mississippi 39205-0080  
Office Telephone (601) 969-7440  
Office FAX (601) 355-9003  
Home Phone (601) 982-7358  
Cell Phone (601) 506-1920  
E-Mail Address [pbreazeale@bsoltd.com](mailto:pbreazeale@bsoltd.com)  
Website [www.bsoltd.com](http://www.bsoltd.com)

Circular 230 Disclosure: To ensure compliance with Treasury Department Regulations, we inform you that, unless specifically indicated otherwise, any tax advice contained in this message, including any attachments, was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or applicable state or local law provisions or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

THE INFORMATION TRANSMITTED IS INTENDED FOR VIEWING ONLY BY THE ADDRESSEE, AND MAY CONTAIN CONFIDENTIAL AND/OR PRIVILEGED MATERIAL. ANY REVIEW, RETRANSMISSION, DISSEMINATION OR OTHER USE OF, OR TAKING OF ANY ACTION IN RELIANCE UPON, THIS INFORMATION BY PERSONS OR ENTITIES OTHER THAN THE INTENDED RECIPIENT IS PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE AND YOU ARE NOT THE INTENDED RECIPIENT, PLEASE CONTACT THE SENDER AT 601-969-7440 AND DELETE THE MATERIAL IMMEDIATELY AND DO NOT RETAIN A COPY.  
THANK YOU





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 9, 2016

Paul V. Breazeale  
P.O. Box 80  
Jackson, MS 39205-0080

Whitwell for Congress  
C00573428  
AF#: 3024

Dear Mr. Breazeale:

On October 7, 2015, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Whitwell for Congress and Paul V. Breazeale, in your official capacity as Treasurer ("respondents"), violated 52 U.S.C. § 30104(a) for failing to file 48-Hour Notices for 36 contributions totaling \$58,000. The Commission also made a preliminary determination that the civil money penalty was \$6,130 based on the schedule of penalties at 11 C.F.R. § 111.44.

After reviewing your written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination. A copy of the Reviewing Officer Recommendation is attached. You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Rhiannon Magruder". The signature is fluid and cursive.

Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review

cc: Robert Quentin Whitwell, Jr., Candidate



Quentin

03/23/2016 12:32 PM

To "administrativefines@fec.gov"  
<administrativefines@fec.gov>,

cc

bcc

Subject Whitwell for Congress -- Paul Breazeale Treasurer

Rhiannon Magruder  
Federal Election Commission  
Via E-mail and Fax:  
202-208-3333  
Administrativefines@fec.gov

Dear Rhiannon --

Thank you for the time to discuss the remaining issue involving my race for Congress. Please understand that I am not trying to make excuses and only want to shed light on a few matters to the Commission in the hopes that this matter can be resolved without the issuance of a fine or at least some leniency.

During the campaign, I employed the best known advisors as managers and treasurer. As the candidate, I did my best to offer positive messages across the district in Mississippi and was not involved in the day to day operations although I understand they were working for me. Mr. Breazeale is a great guy and I appreciate his assistance. However, the question of who was/is Treasurer of my campaign leaves out the fact that the alleged violations occurred during the time he was officially serving as my Treasurer. I am confident that the reporting information he needed was communicated by my campaign manager in a timely manner and personally called Mr. Breazeale from the bank the day I took out my campaign loan.

Once I discovered the FEC inquiry, he and I specifically discussed the matter and although by then he had stated in writing he no longer wished to be my campaign Treasurer, he and his office did assist me in following through with terminating my campaign officially per my discussions with you by telephone as no activity was still occurring and all financial matters had been resolved to my knowledge.

I would request leniency from the Commission due to to these facts and the following:

1. This was a special election with prickly rules that are not always known and require tighter deadlines than normal.
2. The campaign was unsuccessful and I no longer am seeing that or any other office.
3. We have closed our account and there are no funds remaining.
4. Any fines assessed will leave me to personally pay for the miscues of others' actions.

I hope this note demonstrates that while I do not fault Mr. Breazeale or anyone else, I do believe our campaign provided the information required and we have terminated all activities. My hope is that the Commission will either forego or greatly reduce the fine assessed as it will be personally punitive on me financially at this time after a hard fought race that required much personal sacrifice.

Thanks for your consideration. My best, Quentin



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2016 MAR 30 PM 2:43

March 30, 2016

MEMORANDUM

**SENSITIVE**

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 3024 – Whitwell for Congress and the Office of Treasurer (C00573428)

On October 7, 2015, the Commission found reason to believe ("RTB") that Whitwell for Congress and Paul V. Breazeale, Treasurer, violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for eight contributions totaling \$58,000 and made a preliminary determination that the civil money penalty was \$6,130 based on the schedule of penalties at 11 C.F.R. § 111.44.

On November 18, 2015, the Commission received a written response ("challenge") from Mr. Breazeale indicating he had resigned as Treasurer effective September 30, 2015. As highlighted in the Reviewing Officer Recommendation ("ROR") dated March 9, 2016, OAR and RAD made subsequent recommendations to account for Mr. Breazeale's resignation. On February 25, 2016, the Commission rescinded the October 7, 2015 RTB finding against Mr. Breazeale and found RTB that Whitwell for Congress and the Office of Treasurer<sup>1</sup> violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for eight contributions totaling \$58,000 and made a preliminary determination that the civil money penalty was \$6,130 based on the schedule of penalties at 11 C.F.R. § 111.44.

After reviewing the challenge, the Reviewing Officer Recommendation ("ROR") dated March 9, 2016 was forwarded to the Commission, a copy was forwarded to the respondents, and

<sup>1</sup> The Committee has not yet designated a new Treasurer pursuant to 11 CFR § 102.2(a)(2). On December 22, 2015, RAD sent a Request for Additional Information to the Candidate, for which a response has not yet been received.

is hereby incorporated by reference. With respect to the reporting violation, they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB, or that they used best efforts to file on time. 11 C.F.R. § 111.35(b). Therefore, the Reviewing Officer recommended that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$6,130 civil money penalty.

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). On March 23, 2016, Mr. Robert Quentin Whitwell, Jr., Candidate, submitted a written response to the ROR requesting the Commission waive or reduce the penalty.

In the response, Mr. Whitwell highlights that Mr. Breazeale had the necessary information to timely file the 48-Hour Notice, and he was Treasurer at the time of the reporting violation. The Reviewing Officer confirms that, in accordance with the Commission's Procedures for Successor Treasurers in Administrative Fines Matters, the Commission acted appropriately in rescinding the RTB finding against Mr. Breazeale and subsequently finding RTB against Whitwell for Congress and the Office of Treasurer.

Mr. Whitwell also states: "...[Mr. Breazeale] and his office did assist me in following through with terminating my campaign officially per my discussions with you by telephone as no activity was still occurring and all financial matters had been resolved to my knowledge." The Reviewing Officer confirms that on January 27, 2016, she recommended they file a Termination Report to officially request termination. The Reviewing Officer explained that the Committee would not be eligible for termination until this matter, and any other outstanding matters, were resolved. That same day, the respondents filed a Termination Report.<sup>2</sup>

Mr. Whitwell also requests consideration for the following additional reasons:

1. This was a special election with prickly rules that are not always known and require tighter deadlines than normal.<sup>3</sup>
2. The campaign was unsuccessful and I no longer am [seeking] that or any other office.
3. We have closed our account and there are no funds remaining.
4. Any fines assessed will leave me to personally pay for the miscues of others' actions.

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<sup>2</sup>As of this date, the Reviewing Officer confirms that the Committee is eligible to terminate once this matter is closed.

<sup>3</sup>On April 6, 2015, the Commission's Information Division sent the Mississippi Special Election Report Notice to the mailing address disclosed on the Committee's Statement of Organization. The notice detailed the reporting requirements in connection with the election, including the 48-Hour Notice requirement for contributions of \$1,000 or more received from April 23 through May 9, 2015.

Negligence, inexperience or unavailability of the Treasurer or other staff, and a committee's failure to know filing dates are all included at 11 C.F.R. § 111.35(d) as examples of a circumstance that will not be considered reasonably unforeseen and beyond the respondents' control. With respect to the reporting violation, the Reviewing Officer concludes the respondents' original challenge and response to the ROR provided no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB, or that they used best efforts to file on time. 11 C.F.R. § 111.35(b). Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$6,130 civil money penalty.

#### **OAR Recommendations**

1. Adopt the Reviewing Officer Recommendation for AF# 3024 involving Whitwell for Congress and the Office of Treasurer in making the final determination;
2. Make a final determination in AF# 3024 that Whitwell for Congress and the Office of Treasurer violated 52 U.S.C. § 30104(a) and assess a \$6,130 civil money penalty; and
3. Send the appropriate letter.

UNCLASSIFIED

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 3024  
Final Determination Recommendation: )  
Whitwell for Congress and the Office of )  
Treasurer (C00573428) )

CERTIFICATION

I, Shelley E. Garr, recording secretary for the Federal Election Commission executive session on April 26, 2016, do hereby certify that the Commission decided by a vote of 6-0, on an amended pre-meeting tally, to:

1. Adopt the Reviewing Officer Recommendation for AF# 3024 involving Whitwell for Congress and the Office of Treasurer in making the final determination.
2. Make a final determination in AF# 3024 that Whitwell for Congress and the Office of Treasurer violated 52 U.S.C. § 30104(a) and assess a \$6,130 civil money penalty.
3. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

April 28, 2016  
Date

Shelley E. Garr  
Shelley E. Garr  
Deputy Secretary of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 3, 2016

Office of Treasurer  
Whitwell for Congress  
P.O. Box 80  
Jackson, MS 39205-0080

Whitwell for Congress  
C00573428  
AF#: 3024

Dear Office of Treasurer:

On October 7, 2015, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Whitwell for Congress and Paul V. Breazeale, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) for failing to file the 48-Hour Notices. By letter dated October 8, 2015, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$6,130 in accordance with the schedule of penalties at 11 C.F.R. § 111.44. On November 18, 2015, the Office of Administrative Review received your written response challenging the RTB finding.

To account for Paul V. Breazeale's resignation as Treasurer, the Commission rescinded the October 7, 2015 RTB finding. On February 25, 2016, the Commission found RTB that Whitwell for Congress and the Office of Treasurer violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for eight contributions totaling \$58,000 and made a preliminary determination that the civil money penalty was \$6,130 based on the schedule of penalties at 11 C.F.R. § 111.44.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that Whitwell for Congress and the Office of Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty in the amount of \$6,130 in accordance with 11 C.F.R. § 111.44. The Reviewing Officer Recommendation was sent to you on March 9, 2016.

On April 26, 2016, the Commission adopted the Reviewing Officer's recommendation and made a final determination that Whitwell for Congress and the Office of Treasurer violated

52 U.S.C. § 30104(a) and assessed a civil money penalty in the amount of \$6,130. A copy of the Final Determination Recommendation is attached.

At this juncture, the following courses of action are available to you:

**1. If You Choose to Appeal the Final Determination and/or Civil Money Penalty**

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the U.S. District Court for the district in which the committee or you reside, or transact business, requesting that the final determination be modified or set aside. See 52 U.S.C. § 30109(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 52 U.S.C. § 30109. 11 CFR § 111.38.

**2. If You Choose Not to Pay the Civil Money Penalty and Not to Appeal**

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 *et seq.* If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact you to request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

Actions which may be taken to enforce recovery of a delinquent debt by Treasury may also include: (1) offset of any payments, which the debtor is due, including tax refunds and salary; (2) referral of the debt to agency counsel for litigation; (3) reporting of the debt to a credit bureau; (4) administrative wage garnishment; and (5) reporting of the debt, if discharged, to the IRS as potential taxable income. In addition, under the provisions of DCIA and other statutes applicable to the FEC, the debtor may be subject to the assessment of other statutory interest, penalties, and administrative costs.

In accordance with the DCIA, at your request, the agency will offer you the opportunity to inspect and copy records relating to the debt, the opportunity for a review of the debt, and the opportunity to enter into a written repayment agreement.

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the civil money penalty, follow the payment instructions on page 4 of this letter. You should make payment within thirty (30) days of receipt of this letter.



## **NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

### **4. Partial Payments**

If you make a payment in an amount less than the civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assessed upon making a final determination.

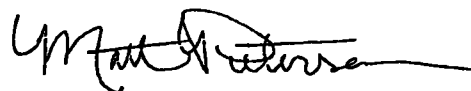
### **5. Settlement Offers**

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assessed upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen  
Chair

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**ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.44, the civil money penalty is \$6,130 for the 48-Hour Notices.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit [www.fec.gov/af/pay.shtml](http://www.fec.gov/af/pay.shtml) to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
PO Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
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FOR: Whitwell for Congress

FEC ID#: C00573428

AF#: 3024

PAYMENT AMOUNT DUE: \$6,130

# CONNECTION